IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 7392 OF 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

HONOURABLE MR.JUSTICE R.H.SHUKLA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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MOHAN VASANJI PATEL & ANR. - Petitioner(s)
Versus
OFFICER ON SPECIAL DUTY
(LAND ACQUISITION) & ORS.- Respondent(s)

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Appearance :
Mr. Dhaval D. Vyas for Petitioner(s) : 1 - 2.
Ms. Archana Rawal, AGP for Respondent(s) : 1.
Mr. Amit V. Thakkar for Respondent Nos.2/1 to 2/5.
None for Respondent(s) : 3 - 5.

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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA
and
HONOURABLE MR.JUSTICE R.H.SHUKLA

Date : 27/11/2007

ORAL JUDGMENT
(Per : HONOURABLE MR.JUSTICE R.H.SHUKLA)

Rule.

Ms. Archana Rawal, learned Assistant Government Pleader, appears and waives service of notice of Rule on behalf of respondent Nos.1, 3, 4 and 5, and Mr. Amit V. Thakkar, learned Advocate, appears and waives service of notice of Rule on behalf of respondent Nos.2/1 to 2/5.

2. The present petition is filed by the petitioners for various prayers, *inter alia*, issuance of a writ of *mandamus* or any other order or direction quashing and setting aside the order dated 22nd December, 2006 and other direction with regard to the land in question. It is also prayed that the possession may not be disturbed or interfered with in the meantime.

3. The contentions have been raised, *inter alia*, referring to the notification issued under the Land Acquisition Act and also with regard to the subsequent development. However, a statement is made in paragraph 10 of the affidavit filed by the respondent-State that the competent authority is ready to decide the matter afresh after affording an opportunity of hearing to the petitioner and respondent Nos.2/1 to 2/5 and pass an appropriate order.

4. Having considered the averments made in the petition as

well as the statement made in paragraph 10 of the reply affidavit and also the statement made at the Bar by Ms. Archana Rawal, learned Assistant Government Pleader for the respondent-State, and on a consensus being arrived at between Mr. Dhaval D. Vyas, learned Advocate of the petitioner and Mr. Amit V. Thakkar, learned Advocate of respondent Nos.2/1 and 2/5 to the effect that the matter may be disposed of by remitting the same to the competent authority to pass an order afresh after affording an opportunity of hearing to the petitioner as well as respondent Nos.2/1 to 2/5, we are of the opinion that the matter is required to be sent back to the competent authority for deciding it afresh in accordance with law.

5. In view of the above statement made by the learned Advocates for the parties, the present petition stands allowed. The impugned order dated 22nd December, 2006 is hereby quashed and set aside. The competent authority is directed to decide the matter afresh on merits after affording an opportunity of hearing to the petitioner as well as respondent Nos.2/1 to 2/5. It will be open for the petitioner as well as respondent Nos.2/1 to 2/5 to raise all the contentions available to them and the same will be considered by the competent authority on merits. It goes without saying that the competent authority will decide the dispute in accordance with law on merits without being influenced by this order. It is made clear that we have not expressed any opinion on

the merits of the matter. Rule is made absolute to the aforesaid extent only. No order as to costs.

[A. M. Kapadia, J.]

[R. H. Shukla, J.]

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